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Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 22 November 2004 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Chairman of the Committee

I have the honour to enclose herewith the report of Bosnia and Herzegovina pursuant to Security Council resolution 1540 (2004) (see annex).

I would like to express my gratitude for the continuing cooperation between Bosnia and Herzegovina and the Security Council Committee established pursuant to resolution 1540 (2004).

(*Signed*) Dr. Mirza Kusljugić
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Permanent Representative of Bosnia and Herzegovina
to the United Nations

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Annex to the letter dated 22 November 2004 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Chairman of the Committee

Report by Bosnia and Herzegovina pursuant to Security Council resolution 1540 (2004)

Recognizing the threat posed by nuclear, chemical and biological weapons to the international peace and security, particularly if in possession of terrorists, Bosnia and Herzegovina has undertaken important steps towards the establishment of full control and prevention of proliferation of weapons of mass destruction, as well as of their means of delivery.

Bosnia and Herzegovina has, above all, directed its efforts towards the establishment of the appropriate legal framework, that shall enable efficient fight against all kinds of terrorism, including the one that involves possibility of using of weapons of mass destruction.

Bosnia and Herzegovina believes that the adequate answer to the threat posed by the weapons of mass destruction proliferation, can only be provided through effective multilateral activities and by establishing adequate interstate cooperation in this field.

Operational Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Bosnia and Herzegovina has never provided any form of support to non-State actors that intend to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operational Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

Bosnia and Herzegovina is a member of:

1. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction

   Bosnia and Herzegovina has ratified Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, on November 29, 1996, (Official Gazette of Republic of BiH, special edition International Treaties number 7/96).

2. Convention on the Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction

Bosnia and Herzegovina took over this Convention through the process of succession (Official Gazette of SFRY – International Treaties, number 43/74).

3. Treaty on the Non-proliferation of Nuclear Weapons

Bosnia and Herzegovina took over this Treaty through the process of succession (Official Gazette of SFRY – International Treaties, number 10/70).

In accordance with the obligation defined in the Article VII of the Convention on Prohibition of Chemical Weapons, State Coordination Body for CWC Implementation (National Authority) has been established. This Body undertake all necessary steps aiming towards more effective fulfillment of Convention obligations.

In close cooperation with the Technical Secretariat of Organization for Prohibition of Chemical Weapons, and on the basis of Conclusion by the BiH Council of Ministers, Inter-ministerial Expert Group, led by the Head of the State Coordination Body, has prepared the *Draft Law on Implementation of the Convention on Prohibition of Chemical Weapons*. It is expected for this law to be soon forwarded for procedure, and adopted by BiH Parliamentary Assembly, by the end of this year.

Draft Law covers all fields regulated by the Convention. Overall control in the fields of production, use, procesing, import, export, transfer, etc. of toxic chemicals shall be established through its implementation. Draft Law clearly defines prohibitions stipulated by the Convention, and its violation is considered as criminal offence, sanctioned with appropriate penalties within the Criminal Code of BiH.

Draft Law, also, in details regulates the areas of allowed activities (those that are not explicitly prohibited by the Convention). It also defines the authorities and tasks of respective institutions in BiH, regulates procedures for collection of needed information, defines conditions for issuance of licenses, specifies obligation to submit the declarations to the OPCW, as well as obligations and ways of protection of confidential data and information, establishes procedures and responsibilities in terms of performance of internal and acceptance of international inspections, etc.

Appropriate Amendments on Criminal Code of BiH (Article 193.a) have already been adopted. According to these amendments, production, development, acquiring, stockpiling, stckpiling, selling or buying, mediating in selling or buying, or any other direct or indirect transfer to the others, possession or transfer of chemical or biological weapons as well as of othe. weapons prohibited by the rules of the International Law, are defined as criminal offences, for which imprisonment punishment are predicted (in term of one year to a long term imprisonment, depending on the consequences caused).

Criminal Code of BiH also incriminates illicit procurement and disposal of nuclear material (Article 194). According to the provisions of the Criminal Code of BiH, whoever, without authorization, uses, transports, stores, alters, disposes of or disperses, or whoever by use of force or by threatening an instant attack upon another

person's life or limb, or in any other illegal way takes away nuclear material with the aim to unlawfully arrogate it, or, with the same aim unlawfully arrogates nuclear material which has been entrusted to him, or with the same aim obtains nuclear material by deceiving someone through false representation or suppression of facts, or by keeping someone mistaken, or by use of force or threat or by any other form of intimidation, demands to receive the nuclear material, or threatens to use it either in order to cause death or serious injury to any person or substantial property damage, or gives such material to another person, or enables another person to get in possession of it, shall be punished by imprisonment for a term between one and ten years.

Criminal offences stipulated by the Criminal Code of BiH have extraterritorial application, what means that these are applicable on the citizens of BiH even in the case if the criminal offence is perpetrated outside of BiH territory (Article 12, paragraph 1, point c of Criminal Code of BiH).

Criminal Code also regulates punishments for legal persons (Chapter XIV, Article 122 to 144 of the Criminal Code of BiH), inducement and helping in the perpetration of criminal offence (Article 30 and 31 of the Criminal Cod of BiH), as well as preparation of the criminal offence (Article 248 of the Criminal Code of BiH), and attempt of criminal offence (Article 26 of the Criminal Code of BiH).

Also, the criminal offence so far referred to as "Illicit Trafficking in Arms and Military Equipment" (Article 193 of the Criminal Code of BiH) has been amended and now it includes the dual use items. The special regime over those items is also being regulated by the amendments on the Law on Export and Import of Weapons and Military Equipment. These changes and amendments establish the regime of full control over the products of dual use, and thus prevent its abuse, or use for illicit purposes.

Competent authorities of BiH have prepared the Draft Law on Protection from Ionized Radiation and on Radiation Safety, through which the status of the regulatory agency at BiH level will be regulated.

Operational Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport,

(b) Develop and maintain appropriate effective physical protection measures,

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law,

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

- **Measures to secure production, use, storage or transport, and physical protection measures**

Draft Law on Implementation of the Convention on the Prohibition of Chemical Weapons establishes a complete control over production, use, processing, storage etc., of toxic chemicals and precursors, controlled by the Convention.
It regulates that the Ministry of Foreign Trade and Economic Relations issues licenses for all controled activities, on the basis of previously given concent by the Ministry of Security, Ministry of Civil Affairs and Ministry of Defense of BiH. It precisely defines the conditions that are to be falfilled in order for license to be issued for activities not prohibited by the Convention. In order to establish complete control, it is foreseen for the spetial inspection to be established, with defined authorities in the case of discovering irregularities or violation of regulations of the Law or Convention. Draft Law shall also provide for the obligations of all bearers of the activities that include toxic chemicals, to undertake protective measures, that shall prevent possible treatment of toxic chemicals which would not be in accordance with the Law or Convention.

Bosnia and Herzegovina applies the Basic Safety Standards of the International Agency for Atomic Energy (IAEA).
The Law on Transport of Radioactive Materials is in force. This law was taken over from former SFRY through the process of succession. Draft Law on Transport of Dangerous Materials is in preparation procedure.

- **Border Control**

Two services that performed the control over transit of persons and means of transport, State Border Service and custom services of the entities, have signed the Agreement, which in more details regulates the field of border control, and provides for the possibility of joint action in fight against smugeling and illicit traffic of dangerous materials.
Integration of custom services on the state level is in process (till now three customs services were operating: in Federation of BiH, Republika Srpska, and Brcko District), through the establishment of new Indirect Taxation Administrative Office, that should contribute to the better quality of control at BiH border crossings.

The preparations for construction of the International Border Crossing Izacic are completed under the auspices of the International Agency for Atomic Energy (IAEA) This border crosting, shall, among other things, be equipped for control of vehicles that transport radioactive material.

Instructions of State Border Service, that regulate control of transit over the state border, stipulates the obligation that all subjects, who are involved in traffic of arms, military equipment and products (that are not covered by the regime of free import/export), have to posses license issued by the Ministry of Foreign Trade and Economic Relations, when transporting products over the state border in accordance with the Decision on classification of products as forms of import and export (Official Gazette BiH number 22/98). Products that are exported/imported on the basis of licenses are labelled by "D" card. Products are classified according to the tariff labels from the Law on Customs Taxes of BiH.

BiH has signed the agreements on international cooperation in border control with the neighboring countries, which shall improve the control in this area. Also, the implementation of the project of joint border crossings between BiH and Croatia is in procedure.

Aiming at efficient fight against all kinds of smuggling, several agreements on customs cooperation have been concluded, which regulate the ways of providing assistance, mutual exchange of data, use of data provided, as well as the possibility of participation in joint investigations on customs offences. Of particular importance are the agreements on cooperation and mutual assistance in customs issues, concluded with the neighboring countries – Republic of Croatia and Federal Republic of Yugoslavia.

The set form of control, so called "Laufzetel", for freight motor vehicles, which is filled in by State Border Service, and customs authorities, has been in use at BiH border crossings since 2002.

The part of State Border Service are also the Specialized Units, which perform the operations at certain parts of state border, in accordance with the intelligence information and assessment of security situation. In this way, state border in the areas other that border crossings are successfully protected and controlled, as well as the border area of 10 km within the territory of BiH.

Although the "Program of BiH Civil Aviation Safety" was adopted this year, BiH State Border Service previously started applying the international standards, and acting in accordance with the provisions of appropriate conventions that relate to control of air transport of dangerous substances.

At the border crossings, dangerous substances, arms and ammunition are systematically recorded, and on the basis of these records, competent authorities prepare detailed analysis and make appropriate security assessment.

- **Export/Import/Transit**

  Draft Law on the Implementation of the Convention on the Prohibition of Chemical Weapons regulates export, import and transit of toxic chemicals, through issuing licenses by the Ministry of Foreign Trade and Economic Relations with prior consent of the Ministry of Security, Ministry of Civil Affairs, Ministry of Foreign Affairs and BiH Ministry of Defense.

In addition to this Draft Law, import/export and transit of toxic chemicals has been partly regulated by the Law on Import and Export of Weapons and Military Equipment ("Official Gazette of BiH", No.5/03 of 07 March 2003). This law puts registration of legal and physical persons and issuing licenses for import and export of weapons and military equipment under the authority of the Ministry of Foreign Trade and Economic Relations. Licenses shall be issued with prior consent of the ministries of foreign affairs, security and defense.
Common list of military equipment contained in the European Union Code of Conduct on Arms Export makes an integral part of this law ("Official Gazette of BiH", No.9/03 of 10 April 2003). This list also includes import/export and transfer of a part of chemicals contained in the CWC.

Establishment of the "TRACKER" system aiming at better coordination of activities relating to issuing licenses for import and export of weapons and military equipment is in a progress. This system will connect the Ministry of Foreign Trade and Economic Relations with all the ministries involved in process of issuing the licenses for import/export and transit (Ministry of Foreign Affairs, Ministry of Security and BiH Ministry of Defense).
End users have been regularly controlled through data base of risky customers, called "The Risk Report". "The Risk Report" data base, made by nongovernmental organization named "Wisconsin Project", represents the source of unclassified information on worldwide companies, suspected of producing weapons for mass destruction.

Bosnia and Herzegovina Council of Ministers has made a Decision on the Acceptance of the European Union Code of Conduct on Arms Export ("Official Gazette of BiH", No.40/02 of 27 December 2002). This way Bosnia and Herzegovina is obligated to respect the European Union rules relating to the weapons export control. Ministry of Foreign Trade and Economic Relations has been responsible for implementation of this decision.

Ministry of Foreign Trade and Economic Relations is obligated to periodically report to the Parliamentary Assembly of Bosnia and Herzegovina, Stabilization Forces (SFOR) and the Office of the High Representative (OHR) in Bosnia and Herzegovina, on all issued licenses for export and import of weapons and military equipment.

Law on Weapons and Military Equipment Production ("Official Gazette of BiH", No.9/04 of 29 March 2004) provides for the Ministry of Foreign Trade and Economic Relations to issue licenses for production and maintenance of weapons and military equipment and to keep the Central Register of legal persons whom the licenses for production and maintenance of weapons and military equipment have been issued to. Inspection supervision of the Law implementation has been regulated as well.

On the basis of this Law, Minister of Foreign Trade has made the following> Instruction on the implementation of permanent control and reporting on production and maintenance of weapons and military equipment ("Official Gazette of BiH", No.28/04 of 23 June 2004); Instruction on the procedure of

issuing the licenses to legal persons regarding production and maintenance of weapons and military equipment and methods of updating the Central Register ("Official Gazette of BiH", No.36/04 of 03 August 2004); and Instruction on inspection supervision in production and maintenance of weapons and military equipment ("Official Gazette of BiH", No.28/04 of 23 June 2004).

Amandmanes to the Law on Import and Export of Weapons and Military Equipment is in the parliamentary procedure still. New regulations will extend implementation of the existing Law on Import and Export to the dual use goods.

Operational paragraphs 4 and 5

Operational paragraph 4 relates to the decision on establishment of the Security Council Committee consisting of all members of the Council, which will report to the Security Council on the implementation of 1540 Resolution.

Through paragraph 5, the Security Council decides that none of the obligations set forth in 1540 Resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency (IAEA) or the Organization for the Prohibition of Chemical Weapons (OPCW);

None of these paragraphs contains provisions that require reporting by the Member States.

Operational paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Bosnia and Herzegovina has accepted the European Union Code of Conduct on Arms Export ("Official Gazeta of BiH", No.40/02 of 27 December 2002). This way Bosnia and Herzegovina is obligated to respect the European Union rules relating to the weapons export control. Regularly updated Common list of military equipment contained in the European Union Code of Conduct on Arms Export makes an integral part of this law ("Official Gazette of BiH", No.9/03 of 10 April 2003).

Operational paragraph 7

Operational paragraph 7 recognizes that some States, lacking the legal and regulatory infrastructure, implementation experience and/or resources, may require assistance in implementing the provisions of this resolution and invites States in a position to do so to offer assistance as appropriate in response to specific requests.

This paragraph does not require reporting by the Member States.

Operational paragraph 5

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral nonproliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organisation for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

a) Bosnia and Herzegovina provides full support and promotes universal joining the international documents which stipulate issues of non-proliferation of the weapons for mass destruction and full implementation of obligations originating from these documents.

b) Bosnia and Herzegovina has amended its Criminal Code to define criminal offences coming from violation of prohibitions contained in international documents regulating field of non-proliferation of weapons for mass destruction.

BiH legal regulations have been set forth in details in the part of this report related to the operational paragraph 2.

c) BiH cooperates actively with and within the Organization for the Prohibition of Chemical Weapons, International Agency for Atomic Energy and the Biological and Toxin Weapons Convention. BiH is committed to take all necessary steps concerning prevention of proliferation of weapons for mass destruction and promotion of international cooperation.

Organization for the Prohibition of Chemical Weapons (OPCW)

BiH takes part in all conferences and meetings of national authorities (general and regional) of the States Parties to the Convention on the Prohibition of Chemical Weapons.

Currently, BiH is chairing the East-European Regional Group within the OPCW. BiH is one of the Vice-presidents of the approaching Conference of the Member States, which will be held in November-December 2004.

BiH has been elected for the member of OPCW Executive Council for the period 2006-2008.

State Coordination Body for implementation of the Convention on the Prohibition of Chemical Weapons very actively cooperates with the OPCW Secretariat Technical.

International Agency for Atomic Energy

BiH takes part in the meetings held in organization of the International Agency for Atomic Energy.

Due to very specific state structure, based on Constitution, defined by the Dayton Peace Agreement, there is no institution at the state level that could have taken responsibility regarding protection from radiation. Such institutions exist at the entity levels: in Federation of BiH –Federal Administration Office for Protection from Radiation and for Radiation Safety with the Federal Ministry of Health; in Republika Srpska – Department for Protection from Radiation with the RS Ministry of Health. Taking into account that implementation of international standards requires establishment of appropriate bodies at the state level, steps have been taken towards fulfillment of legal assumptions for establishment of Regulatory Agency/body for protection from radiation. This agency/body should be responsible for cooperation with the IAEA.

Bacteriological/Biological and Toxin Weapons Convention

Bosnia and Herzegovina regularly takes part in the meetings of member states and experts within the Bacteriological/Biological and Toxin Weapons Convention.

d) All international documents that Bosnia and Herzegovina ratified as well as all the laws adopted by BiH Parliamentary Assembly have been published in the Official Gazette of BiH (accessible by Internet).

State Coordination Body for the Implementation of the Convention on the Prohibition of Chemical Weapons has informed in writing all enterprises/companies in BiH on their obligations to implement provisions of the Convention on the Prohibition of Chemical Weapons.

Aiming at getting better information on the provisions and obligations coming from the Convention, State Coordination Body, together with the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons, in April this year, organised a course for representatives of all relevant institutions of BiH, entities and Brcko District and for representatives of BiH industry

After the Law on Implementation of the Convention comes into force, State Coordination Body plans to create a special web-site which will contain all necessary information related to this Convention.

Operational paragraph 9

Calls upon all States to promote dialogue and cooperation on nonproliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

Bosnia and Herzegovina continues to promote dialog on the issues of non-proliferation of the weapons for mass destruction in all international forums in which it takes part. Bosnia and Herzegovina is committed to make maximum efforts in promoting cooperation in this field.

Operational paragraph 10

Calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials.

Bosnia and Herzegovina has established efficient control of its borders. Significant efforts have been put into implementation of the law and promotion of international cooperation aiming at detection, suppression and prevention of illicit trafficking in weapons for mass destruction, their means of delivery and related materials.

Bosnia and Herzegovina supports the Proliferation Security Initiative (PSI) aimed at prevention of proliferation of nuclear, chemical and biological/bacteriological and toxin weapons.

Detailed information on the measures relating to control of BiH borders and the signed bilateral agreements on promoting cooperation and providing support to customs services has been contained in the part of this Report on operational paragraph 3.

Operational paragraphs 11 and 12

Operational paragraphs 11 and 12 deal with the intention of the Security Council to monitor implementation of 1540 resolution and, to this end, to make appropriate decisions.
These paragraphs do not require report.